

AMENDED IN SENATE JUNE 12, 2006

AMENDED IN ASSEMBLY MAY 4, 2006

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1881

Introduced by Assembly Member Laird

January 23, 2006

~~An act to amend Sections 65591.2, 65591.5, 65592, 65594, 65595, and 65599 of, and to repeal Section 65593 of, the Government Code, and to add Article 4.5 (commencing with An act to add Section 1353.8 to the Civil Code, to repeal Section 65594 of, and to repeal and add Article 10.8 (commencing with Section 65591) of Chapter 3 of Division 1 of Title 7 of, the Government Code, to add Section 25401.9 to the Public Resources Code, and to add Article 4.5 (commencing with Section 535) to Chapter 8 of Division 1 of the Water Code, relating to water conservation.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1881, as amended, Laird. Water conservation.

(1) Existing law, the Davis-Sterling Common Interest Development Act, defines and regulates common interest developments, which include community apartment projects, condominium projects, planned developments, and stock cooperatives.

This bill would prohibit a common interest development from restricting the use of low water-using plants if the plants meet the maintenance requirements of the common interest development.

(+)

(2) The Water Conservation in Landscaping Act requires the Department of Water Resources to appoint an advisory task force to work with the department to draft a model local water efficient landscape ordinance that local agencies may adopt, requires the task force to submit the ordinance to the department on or before May 1, 1991, and requires the task force to cease to exist on the date the department adopts the model ordinance or January 1, 1992, whichever occurs first. The act requires the department, not later than January 1, 1992, to adopt a model local water efficient landscape ordinance which each local agency may adopt. The act makes the model local water efficient landscape ordinance adopted by the department applicable within the jurisdiction of a local agency if that local agency, by January 1, 1993, has not adopted a water efficient landscape ordinance or has not adopted certain findings that the adoption of the ordinance is unnecessary.

~~This bill would repeal provisions regarding the advisory task force specify that the provision making the model ordinance applicable to a local agency on and after January 1, 1993, does not apply to chartered cities. The bill would require the department, not later than January 1, 2009, and based on prescribed recommendations by regulation, to update the model local water efficient landscape ordinance and to include in the updated ordinance restrictions on overspray and runoff in accordance with specified requirements. The bill would require the department to prepare and submit to the Legislature a prescribed report before the adoption of the updated model ordinance. The bill would require a local agency, not later than January 1, 2010, to adopt the updated model ordinance or other water efficient landscape ordinance that is at least as effective in conserving water as the updated model ordinance. The bill would make the updated model ordinance applicable within the jurisdiction of a local agency, including a chartered city, if, by January 1, 2010, the local agency has not adopted a its own water efficient landscape ordinance that is at least as effective as the updated ordinance in conserving water or the updated model ordinance. The bill would require each local agency, not later than January 31, 2010, to notify the department as to whether the local agency is subject to the department's updated model ordinance and, if not, to submit to the department a copy of the water efficient landscape ordinance adopted by the local agency. The bill would require the department, not later than January 31, 2011, to~~

prepare and submit a report to the Legislature relating to the status of water efficient landscape ordinances adopted by local agencies.

By imposing requirements on local agencies in connection with the adoption of water efficient landscape ordinances, the bill would impose a state-mandated local program.

(3) Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission), after one or more public hearings, to take specified action to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy. Existing law requires the Energy Commission, by January 1, 2004, to amend specified regulations to require that residential clothes washers manufactured on or after January 1, 2007, be at least as water efficient as commercial clothes washers, and to take certain other related action.

This bill would require the Energy Commission, in consultation with the department, to adopt, by regulation, performance standards and labeling requirements for landscape irrigation equipment, including irrigation controllers, moisture sensors, emission devices, and valves to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy or water. The bill would require the Energy Commission to adopt those requirements for landscape irrigation controllers and moisture sensors by January 1, 2010, and, on and after January 1, 2012, would prohibit the sale or installation of an irrigation controller or moisture sensor for landscape use unless the controller or sensor meets those adopted requirements. The bill would require the Energy Commission, on or before January 1, 2010, to prepare and submit to the Legislature a report that sets forth a proposed schedule for adopting performance standards and labeling requirements for emission devices and valves.

(4) Existing law generally requires an urban water supplier to install water meters on all municipal and industrial service connections located within its service area on or before January 1, 2025.

~~The~~

~~This bill would require a water purveyor, as defined, serving 300 or more service connections to require as a condition of new water service on and after January 1, 2008, the installation of a separate water-meter meters to measure the volume of water used exclusively for landscape purposes. The bill would make this requirement applicable to specified service connections, other than single-family~~

~~residential connections, that serve property with more than 5,000 square feet of irrigated landscape.~~

~~By imposing requirements on local agencies in connection with the adoption and enforcement of water efficient landscape ordinances, the bill would impose a state-mandated local program.~~

~~(2)~~

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1353.8 is added to the Civil Code, to
2 read:

3 1353.8. A common interest development shall not restrict the
4 use of low water-using plants if the plants meet the maintenance
5 requirements of the common interest development.

6 SEC. 2. Article 10.8 (commencing with Section 65591) of
7 Chapter 3 of Division 1 of Title 7 of the Government Code is
8 repealed.

9 SEC. 3. Article 10.8 (commencing with Section 65591) is
10 added to Chapter 3 of Division 1 of Title 7 of the Government
11 Code, to read:

12

13 Article 10.8. Water Conservation in Landscaping

14

15 65591. This article shall be known and may be cited as the
16 Water Conservation in Landscaping Act.

17 65592. Unless the context requires otherwise, the following
18 definitions govern the construction of this article:

19 (a) "Department" means the Department of Water Resources.

20 (b) "Local agency" means any city, county, or city and
21 county, including a charter city or charter county.

1 (c) “Water efficient landscape ordinance” means an
2 ordinance or resolution adopted by a local agency, or prepared
3 by the department, to address the efficient use of water in
4 landscaping.

5 65593. The Legislature finds and declares all of the
6 following:

7 (a) The waters of the state are of limited supply and are
8 subject to ever increasing demands.

9 (b) The continuation of California’s economic prosperity is
10 dependent on adequate supplies of water being available for
11 future uses.

12 (c) It is the policy of the state to promote the conservation and
13 efficient use of water and to prevent the waste of this valuable
14 resource.

15 (d) Landscapes are essential to the quality of life in California
16 by providing areas for active and passive recreation and as an
17 enhancement to the environment by cleaning air and water;
18 preventing erosion, offering fire protection, and replacing
19 ecosystems lost to development.

20 (e) Landscape design, installation, and maintenance can and
21 should be water efficient.

22 (f) Section 2 of Article X of the California Constitution
23 specifies that the right to use water is limited to the amount
24 reasonably required for the beneficial use to be served and the
25 right does not and shall not extend to waste or unreasonable use
26 or unreasonable method of use.

27 (g) (1) The Legislature, pursuant to Chapter 682 of the
28 Statutes of 2004, requested the California Urban Water
29 Conservation Council to convene a stakeholders work group to
30 develop recommendations for improving the efficiency of water
31 use in urban irrigated landscapes.

32 (2) The work group report includes a recommendation to
33 update the model water efficient landscape ordinance adopted by
34 the department pursuant to Chapter 1145 of the Statutes of 1990.

35 (3) It is the intent of the Legislature that the department
36 promote the use of this updated model ordinance.

37 (h) Notwithstanding Article 13 (commencing with Section
38 65700), this article addresses a matter that is of statewide
39 concern and is not a municipal affair as that term is used in
40 Section 5 of Article XI of the California Constitution.

1 Accordingly, it is the intent of the Legislature that this article,
2 except as provided in Section 65594, apply to all cities and
3 counties, including charter cities and charter counties.

4 65594. (a) Except as provided in Section 65595, if by
5 January 1, 1993, a local agency did not adopt a water efficient
6 landscape ordinance and did not adopt findings based on
7 climatic, geological, or topographical conditions, or water
8 availability that state that a water efficient landscape ordinance
9 is unnecessary, the model water efficient landscape ordinance
10 adopted by the department pursuant to Chapter 1145 of the
11 Statutes of 1990 shall apply within the jurisdiction of the local
12 agency as of that date, shall be enforced by the local agency, and
13 shall have the same force and effect as if adopted by the local
14 agency.

15 (b) Notwithstanding subdivision (b) of Section 65592,
16 subdivision (a) does not apply to chartered cities.

17 (c) This section shall remain in effect only until January 1,
18 2010, and as of that date is repealed, unless a later enacted
19 statute, that is enacted before January 1, 2010, deletes or extends
20 that date.

21 65595. (a) (1) Not later than January 1, 2009, by regulation,
22 the department shall update the model water efficient landscape
23 ordinance adopted pursuant to Chapter 1145 of the Statutes of
24 1990. The updated model ordinance shall be based on the
25 recommendations set forth in the report prepared pursuant to
26 Chapter 682 of the Statutes of 2004, shall reflect consideration
27 by the department of the areas of agreement and disagreement in
28 the report, and shall meet the requirements of Section 65596.

29 (2) Before the adoption of the updated model ordinance
30 pursuant to paragraph (1), the department shall prepare and
31 submit to the Legislature a report relating to both of the
32 following:

33 (A) The extent to which local agencies have complied with the
34 model water efficient landscape ordinance adopted pursuant to
35 Chapter 1145 of the Statutes of 1990.

36 (B) The department's recommendations regarding the
37 landscape water budget component of the updated model
38 ordinance described in subdivision (b) of Section 65596.

1 (b) Not later than January 31, 2009, the department shall
2 distribute the updated model ordinance adopted pursuant to
3 subdivision (a) to all local agencies and other interested parties.

4 (c) On or before January 1, 2010, a local agency shall adopt
5 one of the following:

6 (1) A water efficient landscape ordinance that is, based on
7 evidence in the record, at least as effective in conserving water
8 as the updated model ordinance adopted by the department
9 pursuant to subdivision (a).

10 (2) The updated model ordinance described in paragraph (1).

11 (d) If the local agency has not adopted, on or before January
12 1, 2010, a water efficient landscape ordinance pursuant to
13 subdivision (c), the updated model ordinance adopted by the
14 department pursuant to subdivision (a) shall apply within the
15 jurisdiction of the local agency as of that date, shall be enforced
16 by the local agency, and shall have the same force and effect as if
17 adopted by the local agency.

18 65596. The updated model ordinance adopted pursuant to
19 Section 65595 shall do all of the following:

20 (a) Include provisions for water conservation and the
21 appropriate use and groupings of plants that are well adapted to
22 particular sites and to particular climatic, soil, or topographic
23 conditions. The model ordinance shall not prohibit or require
24 specific plant species, but it may include conditions for the use of
25 plant species or encourage water conserving plants. However,
26 the model ordinance shall not include conditions that have the
27 effect of prohibiting or requiring specific plant species.

28 (b) Include a landscape water budget component that
29 establishes the maximum amount of water to be applied through
30 the irrigation system, based on climate, landscape size, irrigation
31 efficiency, and plant needs.

32 (c) Promote the benefits of consistent local ordinances in
33 neighboring areas.

34 (d) Encourage the capture and retention of stormwater on site
35 to improve water use efficiency or water quality.

36 (e) Include provisions for the use of automatic irrigation
37 systems and irrigation schedules based on climatic conditions,
38 specific terrains and soil types, and other environmental
39 conditions. The model ordinance shall include references to
40 local, state and federal laws and regulations regarding standards

1 *for water conserving irrigation equipment. The model ordinance*
2 *may include climate information for irrigation scheduling based*
3 *on the California Irrigation Management Information System.*

4 *(f) Include provisions for onsite soil assessment and soil*
5 *management plans that include grading and drainage to promote*
6 *healthy plant growth and to prevent excessive erosion and runoff,*
7 *and the use of mulches in shrub areas, garden beds, and*
8 *landscaped areas where appropriate.*

9 *(g) Promote the use of recycled water consistent with Article 4*
10 *(commencing with Section 13520) of Chapter 7 of Division 7 of*
11 *the Water Code.*

12 *(h) Seek to educate water users on the efficient use of water*
13 *and the benefits of doing so.*

14 *(i) Address regional differences, including fire prevention*
15 *needs.*

16 *(j) Exempt landscaping that is part of a registered historical*
17 *site.*

18 *(k) Encourage the use of economic incentives to promote the*
19 *efficient use of water.*

20 *(l) Include provisions for landscape maintenance practices*
21 *that foster long-term landscape water conservation. Landscape*
22 *maintenance practices may include, but are not limited to,*
23 *performing routine irrigation system repair and adjustments,*
24 *conducting water audits, and prescribing the amount of water*
25 *applied per landscaped acre.*

26 *(m) Include provisions to minimize landscape irrigation*
27 *overspray and runoff.*

28 *65597. Not later than January 31, 2010, each local agency*
29 *shall notify the department as to whether the local agency is*
30 *subject to the department's updated model ordinance adopted*
31 *pursuant to Section 65595, and if not, shall submit to the*
32 *department a copy of the water efficient landscape ordinance*
33 *adopted by the local agency, including a copy of the local*
34 *agency's findings that state that its water efficient landscape*
35 *ordinance is at least as effective in conserving water as the*
36 *department's updated model ordinance. Not later than January*
37 *31, 2011, the department shall prepare and submit a report to the*
38 *Legislature summarizing the status of water efficient landscape*
39 *ordinances adopted by local agencies.*

1 65598. Any model ordinance adopted pursuant to this article
2 shall exempt cemeteries from all provisions of the ordinance
3 except those set forth in subdivisions (h), (k), and (l) of Section
4 65596. In adopting language specific to cemeteries, the
5 department shall recognize the special landscape management
6 needs of cemeteries.

7 65599. Any actions or proceedings to attach, review, set
8 aside, void, or annul the act, decision, or findings of a local
9 agency on the ground of noncompliance with this article shall be
10 brought pursuant to Section 1085 of the Code of Civil Procedure.

11 SEC. 4. Section 25401.9 is added to the Public Resources
12 Code, to read:

13 25401.9. (a) The commission, in consultation with the
14 Department of Water Resources, shall adopt, by regulation,
15 performance standards and labeling requirements for landscape
16 irrigation equipment, including, but not limited to, irrigation
17 controllers, moisture sensors, emission devices, and valves, for
18 the purpose of reducing the wasteful, uneconomic, inefficient, or
19 unnecessary consumption of energy or water.

20 (b) For the purposes of complying with subdivision (a), the
21 commission shall do all of the following:

22 (1) Adopt performance standards and labeling requirements
23 for landscape irrigation controllers and moisture sensors on or
24 before January 1, 2010.

25 (2) Consider the Irrigation Association's Smart Water
26 Application Technology Program testing protocols when
27 adopting performance standards for irrigation controllers.

28 (3) Prepare and submit a report to the Legislature, on or
29 before January 1, 2010, that sets forth on a proposed schedule
30 for adopting performance standards and labeling requirements
31 for emission devices and valves.

32 (c) On and after January 1, 2012, an irrigation controller or
33 moisture sensor for landscape irrigation uses may not be sold or
34 installed in the state unless the controller or sensor meets the
35 performance standards and labeling requirements established
36 pursuant to this section.

37 SEC. 5. Article 4.5 (commencing with Section 535) is added
38 to Chapter 8 of Division 1 of the Water Code, to read:

Article 4.5. Irrigated Landscape

535. (a) A water purveyor shall require as a condition of new water service on and after January 1, 2008, the installation of separate water meters to measure the volume of water used exclusively for landscape purposes.

(b) Subdivision (a) does not apply to either of the following:

(1) Single-family residential connections.

(2) Connections used to supply water for the commercial production of agricultural crops or livestock.

(c) Subdivision (a) applies only to a service connection for which both of the following apply:

(1) The connection serves property with more than 5,000 square feet of irrigated landscape.

(2) The connection is supplied by a water purveyor that serves 15 or more service connections.

(d) For the purposes of this section, “new water service” means the installation of a new water meter where water service has not been previously provided, and does not include applications for new water service submitted before January 1, 2008.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

~~SECTION 1. Section 65591.2 of the Government Code is amended to read:~~

~~65591.2. The Legislature finds and declares all of the following:~~

~~(a) The waters of the state are of limited supply and are subject to ever increasing demands.~~

~~(b) The continuation of California’s economic prosperity is dependent on adequate supplies of water being available for future uses.~~

~~(c) It is the policy of the state to promote the conservation and efficient use of water and to prevent the waste of this valuable resource.~~

~~(d) Landscapes are essential to the quality of life in California by providing areas for active and passive recreation and as an~~

1 enhancement to the environment by cleaning air and water,
2 preventing erosion, offering fire protection, and replacing
3 ecosystems lost to development.

4 (e) Landscape design, installation, and maintenance can and
5 should be water efficient.

6 (f) Section 2 of Article X of the California Constitution
7 specifies that the right to use water is limited to the amount
8 reasonably required for the beneficial use to be served and the
9 right does not and shall not extend to waste or unreasonable use
10 or unreasonable method of use.

11 SEC. 2. Section 65591.5 of the Government Code is amended
12 to read:

13 65591.5. It is the intent of the Legislature that the Department
14 of Water Resources prepare and promote the use of a model
15 water efficient landscape ordinance that local agencies may
16 adopt.

17 SEC. 3. Section 65592 of the Government Code is amended
18 to read:

19 65592. Unless the context requires otherwise, the definitions
20 used in this section govern the construction of this article:

21 (a) "Department" means the Department of Water Resources.

22 (b) "Local agency" means any city, county, or city and county.
23 On and after January 1, 2010, "local agency" includes a chartered
24 city.

25 (c) "Water efficient landscape ordinance" means an ordinance
26 or resolution adopted by a local agency to address the efficient
27 use of water in landscaping.

28 SEC. 4. Section 65593 of the Government Code is repealed.

29 SEC. 5. Section 65594 of the Government Code is amended
30 to read:

31 65594. (a) The department shall adopt a model local water
32 efficient landscape ordinance which each local agency may
33 adopt.

34 (b) Not later than January 1, 2009, after holding a public
35 hearing, the department, based on recommendations set forth in
36 the report prepared pursuant to Chapter 682 of the Statutes of
37 2004, shall update the model local water efficient landscape
38 ordinance adopted pursuant to subdivision (a). The updated
39 ordinance shall include restrictions on overspray and runoff.

1 ~~(e) In developing the model ordinance, the department shall~~
2 ~~recognize and promote the benefits of consistent local ordinances~~
3 ~~in areas having similar climatic, geological, or topographical~~
4 ~~conditions.~~

5 ~~(d) Not later than January 31, 2009, the department shall~~
6 ~~distribute the updated model ordinance adopted pursuant to~~
7 ~~subdivision (b) to all local agencies and other interested parties.~~

8 ~~SEC. 6. Section 65595 of the Government Code is amended~~
9 ~~to read:~~

10 ~~65595. (a) Except as provided in subdivision (b), if by~~
11 ~~January 1, 1993, a local agency has not adopted a water efficient~~
12 ~~landscape ordinance or has not adopted findings based on~~
13 ~~climatic, geological, or topographical conditions, or water~~
14 ~~availability, which state that a water efficient landscape~~
15 ~~ordinance is unnecessary, the model water efficient landscape~~
16 ~~ordinance adopted by the department pursuant to subdivision (a)~~
17 ~~of Section 65594 shall apply within the jurisdiction of the local~~
18 ~~agency as of that date, shall be enforced by the local agency, and~~
19 ~~shall have the same force and effect as if adopted by the local~~
20 ~~agency.~~

21 ~~(b) If, by January 1, 2010, a local agency has not adopted a~~
22 ~~water efficient landscape ordinance that is, based on evidence in~~
23 ~~the record, at least as effective as the updated model ordinance~~
24 ~~adopted by the department pursuant to subdivision (b) of Section~~
25 ~~65594 in conserving water, the updated model ordinance adopted~~
26 ~~by the department pursuant to subdivision (b) of Section 65594~~
27 ~~shall apply within the jurisdiction of the local agency as of that~~
28 ~~date, shall be enforced by the local agency, and shall have the~~
29 ~~same force and effect as if adopted by the local agency.~~

30 ~~SEC. 7. Section 65599 of the Government Code is amended~~
31 ~~to read:~~

32 ~~65599. Not later than January 31, 2010, each local agency~~
33 ~~shall notify the department as to whether the local agency is~~
34 ~~subject to the department's model ordinance, and if not, shall~~
35 ~~submit to the department a copy of the water efficient landscape~~
36 ~~ordinance adopted by the local agency, including a copy of the~~
37 ~~local agency's findings which state that its water efficient~~
38 ~~landscape ordinance is at least as effective as the department's~~
39 ~~model ordinance in conserving water. Not later than January 31,~~
40 ~~2011, the department shall prepare and submit a report to the~~

1 ~~Legislature summarizing the status of water efficient landscape~~
2 ~~ordinances adopted by local agencies.~~

3 ~~SEC. 8. Article 4.5 (commencing with Section 535) is added~~
4 ~~to Chapter 8 of Division 1 of the Water Code, to read:~~

5
6 ~~Article 4.5. Irrigated Landscape~~
7

8 ~~535. (a) A water purveyor serving 300 or more service~~
9 ~~connections shall require as a condition of new water service on~~
10 ~~and after January 1, 2008, the installation of a separate water~~
11 ~~meter to measure the volume of water used exclusively for~~
12 ~~landscape purposes.~~

13 ~~(b) Subdivision (a) does not apply to single-family residential~~
14 ~~connections.~~

15 ~~(c) Subdivision (a) applies only to service connections serving~~
16 ~~property with more than 5,000 square feet of irrigated landscape.~~

17 ~~SEC. 9. If the Commission on State Mandates determines that~~
18 ~~this act contains costs mandated by the state, reimbursement to~~
19 ~~local agencies and school districts for those costs shall be made~~
20 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
21 ~~4 of Title 2 of the Government Code.~~